

ESTTA Tracking number: **ESTTA291716**

Filing date: **06/24/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91187137
Party	Defendant Motley Crue, Inc.
Correspondence Address	DAVID W. GRACE LOEB & LOEB LLP 10100 SANTA MONICA BLVD , STE 2200 LOS ANGELES, CA 90067-4120 UNITED STATES
Submission	Response to Board Order/Inquiry
Filer's Name	Melanie Howard
Filer's e-mail	mhoward@loeb.com, dgrace@loeb.com, cmedina@loeb.com
Signature	/melaniehoward/
Date	06/24/2009
Attachments	Motley Crue v Fotakis Notice re Failure to Appear.pdf (3 pages)(442398 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK AND TRIAL APPEAL BOARD**

Mr. Kirk Fotakis, an individual,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91187137
)	
Motley Crue, Inc.,)	
)	
Applicant.)	
<hr/>		
Mark:)	
CRUEFEST)	
)	
App. No.)	
77/373,768)	
)	
Filed:)	
January 16, 2008)	
)	
Published:)	
August 6, 2008)	
<hr/>		

**NOTICE TO THE BOARD REGARDING OPPOSER'S FAILURE TO
APPEAR AT PREVIOUSLY SCHEDULED TESTIMONY DEPOSITION**

Submitted by:
David W. Grace
Melanie Howard
Loeb & Loeb LLP
10100 Santa Monica Boulevard
Suite 2200
Los Angeles, California 90067
Telephone: 310-282-2000
Fax: 310-282-2200

NOTICE

Applicant Motley Crue, Inc. ("Applicant") hereby notifies the Board that Opposer Kirk Fotakis ("Opposer") failed to appear at his testimony deposition on June 22, 2009, which deposition Applicant had duly noticed prior to filing the Motion To Compel now pending before the Board. Opposer did not contact Applicant to reschedule the deposition nor to inform Applicant that Opposer would not be attending the deposition.


In its pending Motion to Compel, Applicant requested an order extending the time within which Applicant may take Opposer's testimony deposition. Applicant respectfully submits that the Board should include in its order on Applicant's pending Motion To Compel an order compelling Opposer to appear for his testimony deposition at a time, place and date to be agreed upon by Applicant and Opposer within thirty (30) days from the issuance of the Board's order.

In the event that the Board declines to compel Opposer's appearance at his testimony deposition as part of Applicant's pending Motion To Compel, Applicant notifies the Board of its intention to move to compel Opposer's appearance at his testimony deposition by separate motion as soon as proceedings resume in this matter.

Respectfully submitted,

Dated: June 24, 2009

DAVID W. GRACE
MELANIE HOWARD
LOEB & LOEB LLP
10100 Santa Monica Boulevard, Suite 2200
Los Angeles, California 90067
Tel: 310-282-2000
Fax: 310-282-2200

By: 
Melanie J. Howard
Attorneys for Applicant, Motley Crue, Inc.

CERTIFICATE OF SERVICE AND MAILING

It is hereby certified that a copy of NOTICE TO THE BOARD REGARDING OPPOSER'S FAILURE TO APPEAR AT TESTIMONY DEPOSITION is being deposited with the United States Postal Service, first-class postage prepaid, in an envelope addressed to:

Mark F. Warzecha
525 Sycamore Street
Evansville, IN 47708

Executed this 24th day of June 2009 at Los Angeles, California.



MELANIE HOWARD